

II. Remarks

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1-5 and 8-22 are pending in the application. Claims 1, 17, 19, 20, 21, and 22 are independent. Note that the claims have been amended for clarity with respect to the specification and drawings, and not for any reason related to patentability.

Certain claims have been amended or cancelled to overcome the objection thereto.

Claims 1-5 and 16-22 stand rejected as being unpatentable over Shimizu, Sawyer, and Krongold, for the reasons discussed on pages 2-5 of the Office Action. Applicant respectfully traverses all art rejections.

As to the rejection of Claims 1-5, 16, and 20-22 in Paragraphs 3-10 of the Office Action, the primary reference relied upon by the Examiner is Sawyer (Shimizu appears to be cited only to extend Sawyer to a receiver receiving more than one channel). Sawyer discloses a system for adjusting power levels of channels to optimize balance between power use and reception quality where some channels are digital and others analog. Reception quality can apparently be measured at the receiver for digital channels, but not for the analog channels, so Sawyer discloses a method for using the reception quality found for the digital channels to set the power levels for the analog channels. The object is not to operate the transmitter at the maximum allowed power, but rather to set the power levels so that reception quality (actually bit error rate at the receiver) is acceptable.

This is completely different from the object of the present invention, as recited in the claims, which is to set the power levels for voice and data channels so that the total transmitted power is as close as possible to the maximum power allowed by government

regulation in order to allow the transmission of as much data as possible through the data channel. The reason for the different object is that Sawyer is only concerned with voice channels (whether digital or analog) and the control channels that control the mobile units, but not data channels. For efficiency, as much data as possible should be sent through data channels. Hence if the power required by the voice channels is lower than allocated at any particular moment, then the power used for the data channels should be increased as much as possible, because then more data can be temporarily moved through the data channels. So the goal is to use up all the allowed power, not to use only enough power to provide acceptable voice reception.

Because of the distinction between Sawyer and the inventions claimed in Claims 1-5, 16, and 20-22, Sawyer combined with Shimizu does not render the claimed inventions obvious. Note also that Claim 1 recites structure for allocating a power budget between voice and data channels, which further distinguishes over the cited art.

Paragraph 5 of the Office Action refers to Claims 20-22 as allegedly unpatentable over Sawyer and Shimizu, but that paragraph does not mention those claims and does not appear to address them at all. Should the rejection be maintained, Applicant respectfully request clarification.

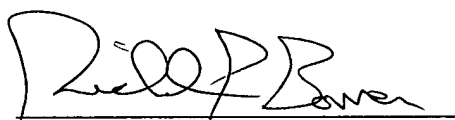
As to paragraphs 9-14 of the Office Action, Krongold appears to disclose allocating power among multiple sub-channels of a data channel to maximize the total data rate carried by the data channel, subject to a maximum total power constraint. However, Claims 16-19 recite methods in which the future power usage of a voice channel is predicted so that the remainder of a total power budget available for the voice channel, and other channels such as data channels can be allocated to maximize the power allocated to the other channels in the future. In other words, Krongold deals with allocation among data channels, whereas Claims 16-

19 recite inventions for allocating power between voice channels and data channels. Viewed in this light, Krongold neither anticipates the inventions claimed in Claims 17-19 nor, combined with Sawyer and/or Shimizu, renders obvious the invention claimed in Claim 16. Accordingly, the salient claimed features of the present invention are nowhere disclosed by the cited art, whether that art is taken individually or in combination.

In view of the above amendments and remarks, it is believed that this application is now in condition for allowance, and a Notice thereof is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 625-3500. All correspondence should continue to be directed to our address given blow.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard P. Bauer", written over a horizontal line.

Attorney for Applicant
Richard P. Bauer
Registration No. 31,588

PATENT ADMINISTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 West Monroe Street
Suite 1600
Chicago, Illinois 60661-3693
Facsimile: (312) 902-1061